

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule LSA Document #14-515 DIGEST

Adds 312 IAC 5-2-12.5 to define "fishing tournament". Adds 312 IAC 5-2-18.5 to define "major organized boating activity". Amends 312 IAC 5-3-2 governing boat races, water ski events, and major organized boating activities. Adds 312 IAC 5-3.5 to govern organized activities and tournaments on designated public waters. Amends 312 IAC 5-5-3 governing litter and other waste disposal from a boat. Repeals 312 IAC 2-4 governing organized activities and tournaments on designated public waters.

312 IAC 2-4-1; 312 IAC 2-4-2; 312 IAC 2-4-3; 312 IAC 2-4-4; 312 IAC 2-4-5; 312 IAC 2-4-7; 312 IAC 2-4-7.5; 312 IAC 2-4-9; 312 IAC 2-4-9.5; 312 IAC 2-4-11; 312 IAC 2-4-12; 312 IAC 2-4-13; 312 IAC 2-4-14; 312 IAC 5-2-12.5; 312 IAC 5-2-18.5; 312 IAC 5-3-2; 312 IAC 5-3.5; 312 IAC 5-5-3

SECTION 1. 312 IAC 5-2-12.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 5-2-12.5 "Fishing tournament" defined

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 12.5 "Fishing tournament" means an activity involving fifteen (15) or more boats used for taking fish where:

- (1) persons compete for a trophy, citation, cash or prize; or**
- (2) a fee is charged to participants.**

(Natural Resources Commission; 312 IAC 5-2-12.5)

SECTION 2. 312 IAC 5-2-18.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 5-2-18.5 "Major organized boating activity" defined

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 18.5. "Major organized boating activity" means an activity other than a boat race, fishing tournament, or water ski event that:

- (1) involves fifteen (15) or more boats as participants;**
- (2) involves fifty (50) or more boats as spectators;**
- (3) is conducted according to a prearranged schedule for a limited duration; or**
- (4) is reasonably expected to significantly disrupt boat traffic.**

(Natural Resources Commission; 312 IAC 5-2-18.5)

SECTION 3. 312 IAC 5-3-2 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-3-2 Site inspection by a conservation officer before issuance of a license for a boat race, water ski event, or major organized boating activity

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 2. (a) Upon the receipt of a license application, a conservation officer shall inspect the areas that would be affected by the event.

(b) The conservation officer shall consider the following factors in reviewing the permit application:

- (1) The density of water traffic on the public water.**
- (2) The physical characteristics of the public water.**
- (3) The proximity of the proposed event to land owned by a person other than the license applicant.**
- (4) The kinds of boats that would be involved or affected.**

- (5) Any other factors that are appropriate to at least one (1) of the following:
- (A) Preventing the existence of unusual conditions or hazards.
 - (B) Promoting scientific fish, wildlife, or botanical resource management.
 - (C) Assisting in the protection of users.

(c) A written report of the inspection shall be submitted by the conservation officer to the division director, together with recommendations for approval, disapproval, or the placement of conditions on the license. (*Natural Resources Commission; 312 IAC 5-3-2; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2369, eff Jan 1, 2002; filed May 27, 2003, 12:35 p.m.: 26 IR 3322, eff Oct 1, 2003; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA*)

SECTION 4. 312 IAC 5-3.5 IS ADDED TO READ AS FOLLOWS:

Rule 3.5 Organized Activities and Tournaments on Designated Public Waters; Administration

312 IAC 5-3.5-1 Applicability

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 1. (a) This rule applies to both of the following:

(1) The process for designating any public water where organized activities and tournaments are regulated.

(2) The administration of organized activities and tournaments on waters designated under subdivision (1).

(b) Exempted from this rule are each of the following:

(1) A boat race.

(2) A water ski event.

(3) A major organized boating activity.

(c) A person must not conduct or participate in a fishing tournament or other organized activity on a public water designated in this rule except under a license issued under this rule.

(d) The department's division of law enforcement shall administer this rule. (*Natural Resources Commission; 312 IAC 5-3.5-1*)

312 IAC 5-3.5-2 Petition to regulate the conduct of fishing tournaments or other organized activities on designated public waters

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14-33-1-1

Sec. 2. (a) The following persons may petition the commission to designate, by rule, a particular public water for regulation:

(1) The county executive for the county where the public water is located. A petition under this subdivision applies only to the portion of the public water located in that county. The county executives for adjoining counties may enter a joint petition.

(2) If a portion of a public water is located within a municipality, the executive for the municipality. A petition under this subsection applies only to the portion of the public water located in the municipality.

(3) A deputy director of the department.

(b) A petition filed under subsection (a) must include the following:

(1) The name and location of the public water to be regulated.

(2) The name, address, and telephone number of the petitioner.

(3) The periods when the public water would be regulated. These periods may be expressed in terms of months or beginning and ending days. Restrictions on activities regulated under this rule may be seasonally adjusted.

(4) Whether regulation would apply to fishing tournaments, other organized activities, or both fishing tournaments and other organized activities. If the regulation would apply to other organized activities, a description of the type of these activities that would be regulated.

(*Natural Resources Commission; 312 IAC 5-3.5-2*)

312 IAC 5-3.5-3 Notice of and response to petition

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 3. (a) Upon receipt of a completed petition under section 3 of this rule, the division of hearings of the commission shall cause:

- (1) a copy of the petition to be delivered for each deputy director of the department; and
- (2) notice of the petition and a brief summary of its contents to be delivered to the legislative services agency for publication in the Indiana Register.

(b) Within ninety (90) days after the receipt of a petition under subsection (a), the department shall review and tender written recommendations to the commission regarding preliminary adoption of a rule to implement the petition. A copy of the recommendations shall also be served upon the petitioner and any other person who requests in writing that the department provide a copy.

(c) In preparing the recommendations described in subsection (b), the department shall consult with the petitioner and any other interested person. The recommendations shall consider each of the following:

- (1) Fish, wildlife, or botanical resource management.
- (2) The protection of users, including the following:
 - (A) Limitations of the public water to safely accommodate boats.
 - (B) Limitations of facilities relative to vehicular access, pedestrian safety, parking, and the launching of boats.
- (3) The protection of private and public property.
- (4) Cultural resources.

(d) For an application to establish a license requirement on a public freshwater lake, the department shall consider limiting the total number of boats in an activity conducted between April 1 and September 30, and licensed under this rule or under 312 IAC 5-3.

(e) The maximum number established under subsection (d) governs any date on which the activity or a portion of the activity is conducted.

(f) If the department does not tender its written recommendations to the commission in a timely fashion as provided in subsection (b), the petitioner may move the commission to place the petition on its agenda at the next regular meeting. (*Natural Resources Commission; 312 IAC 5-3.5-3*)

312 IAC 5-3.5-4 Designation of regulated public water by rule

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-22; IC 14

Sec. 4. (a) The commission may approve the recommendations of the department under section 4(b) of this rule or may modify or reject those recommendations.

(b) If a petition results in preliminary adoption of a rule, the proposal shall be reviewed under IC 4-22. A public hearing on the proposal shall be conducted in the county where the public water to be regulated is located.

(c) The regulation of a fishing tournament or other organized activity becomes effective for a particular public water when a section under this rule designating that public water becomes effective under IC 4-22. (*Natural Resources Commission; 312 IAC 5-3.5-4*)

312 IAC 5-3.5-5 Advance date approval

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 5. (a) The department shall conduct an organizational meeting or meetings between October 1 and November 15 to establish dates for the following year on which fishing tournaments or other organized activities can be conducted. The department may apply any reasonable process in an organizational meeting, including holding a drawing, to reserve a date or dates for a scheduled event and to minimize user conflict. As a

condition for participation in a drawing, an individual may be required to identify the organization that the individual represents. The department shall not approve more than one (1) scheduled event for an individual on the same waterway, if the events would be separated by fewer than fourteen (14) days.

(b) In addition to the establishment of dates under subsection (a), the department may establish a date for a tournament beyond the following year if an individual presents satisfactory evidence that a tournament would have national significance.

(c) An individual who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least sixty (60) days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation.

(d) An individual is disqualified from participating in an organizational meeting unless the individual and the organization that the individual represents have paid any outstanding fee or cost established in section 12 of this rule. (*Natural Resources Commission; 312 IAC 5-3.5-5*)

312 IAC 5-3.5-6 License application

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 6. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least sixty (60) days before the date of the proposed tournament.

(b) An applicant must be an individual who is:

- (1) at least eighteen (18) years of age; and
- (2) a resident of Indiana.

(c) The applicant must state one (1) of the following:

(1) The terms of a reserved date obtained under section 7 of this rule.

(2) If a reserved date was not obtained under subdivision (1), the activity location and number of boats for which approval is sought. An application under this subdivision is subject to an application previously:

(A) reserved under subdivision (1); or

(B) delivered to the department under this subsection.

(3) If an applicant seeks approval for additional boats to participate in a scheduled event approved under subdivision (1) or (2), the number of boats to be added. An application under this subdivision is subject to an application previously submitted under this subsection.

(d) The applicant must attach a copy of proposed standards that would govern the organized activity.

(e) The department shall not approve any license or amended license under this section that would authorize an organized activity to exceed the maximum limits applicable to a lake under sections 12 through 14 of this rule.

(f) The department shall condition any license to achieve at least one (1) of the following:

- (1) Prevention of unusual conditions or hazards.
- (2) Promotion of scientific fish, wildlife, or botanical resource management.
- (3) Assistance in the protection of users.

(g) To accomplish the purposes described in subsection (f), the department may do the following:

(1) Designate the following:

(A) The starting time or ending time for an activity.

(B) The time and location for the use of any public facilities.

(2) Spread starting times among license holders if more than one (1) is approved for a particular waterway.

(3) Restrict portions of the waterway from use by the participants.

(h) The department may require a nonrefundable application fee with the application. The director shall establish the amount of the fee within a range approved by the commission. (*Natural Resources Commission; 312 IAC 5-3.5-6*)

312 IAC 5-3.5-7 General duties of license holder

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 7. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

- (1) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.**
- (2) Obtain permission from the department to use a zone or zones in the public water for:**
 - (A) mooring;**
 - (B) judging;**
 - (C) weigh-in;**
 - (D) starting; or**
 - (E) any other activities using public facilities.**
- (3) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.**
- (4) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.**
- (5) Provide officials needed to supervise participants and spectators.**
- (6) Require each participating boat to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.**
- (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.**
- (8) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.**
- (9) Refrain from obstructing ingress, egress, or regress from private property.**
- (10) Assure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:**
 - (A) Except as provided in clause (B), vehicles and trailers of contestants must use not more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.**
 - (B) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under clause (A). This clause does not apply to a fishing tournament that is subject to section 12 of this rule.**
- (11) Apply in a drawing held under section 7(b) of this rule for not more than one (1) scheduled event on the same waterway with starting dates separated by fewer than fourteen (14) days. A tournament scheduled for two (2) consecutive days is a single event. For a tournament administered by the division of law enforcement, an individual may apply for more than one (1) event on the same waterway, with starting dates separated by fewer than fourteen (14) days, if the individual is the agent for different organizations.**
- (12) Act in good faith to fully perform the event. An individual or organization that demonstrates a pattern of violations of this subdivision may be denied another license.**

(Natural Resources Commission; 312 IAC 5-3.5-7)

312 IAC 5-3.5-8 Reporting

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 8. (a) A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the following:

- (1) The number of boats and participants.**
- (2) The starting and ending times.**
- (3) The actual use of public facilities.**

(b) In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report by a specified date, on a department form, legible and accurate records of the following:

- (1) The tournament name.
- (2) The name, address, and telephone number of the license holder.
- (3) The tournament date or dates, including starting time and ending time.
- (4) The target fish species.
- (5) The name of any waterway fished.
- (6) The number of boats and number of participants.
- (7) Individual or team catch statistics for each species of fish taken, including the following:
 - (A) The numbers and lengths of fish weighed-in.
 - (B) The numbers and lengths of fish caught and released.

(*Natural Resources Commission; 312 IAC 5-3.5-8*)

312 IAC 5-3.5-9 Sanctions and emergency relief

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14

Sec. 9. (a) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke the license of a person who violates a term of the license, this article, or another law. In addition, the department may seek an order in the complaint to disqualify the person from receiving another license under this rule, for a period not to exceed three (3) years, if the person:

- (1) conducts an activity, for which a license is required under this rule, without having such a license in effect; or
- (2) violates a term of a license issued under this rule.

(b) The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to condition, suspend, or revoke a license if warranted by changed circumstances at the staging area or on the public water that might reasonably be anticipated to endanger public health, safety, or the environment.

(c) In addition to the penalties prescribed by subsections (a) and (b), a person who violates this rule commits a Class C infraction. (*Natural Resources Commission; 312 IAC 5-3.5-9*)

312 IAC 5-3.5-10 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 5-14-3; IC 14

Sec. 10. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of boats that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamoni e	Mississinewa	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	75	100	30	178	50	100
April	175	75	75	100	30	178	50	60
May	175	75	75	100	20	178	28	50
June	175	30	30	75	20	125	28	50
July	175	30	30	75	20	125	28	50
August	175	30	30	75	20	125	28	50
September	175	75	75	100	20	178	28	60
October	175	75	75	100	30	178	50	100
November	100	75	75	100	30	178	50	100

(c) A boat used to administer a tournament is excluded in determining the number of participating boats.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), a fishing tournament on Monroe Lake, from October 15 through the end of February, is restricted to a maximum of one hundred (100) participating boats.

(f) At least thirty (30) days before the scheduled event, a license holder must file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

(1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.

(2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.

(3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

(g) Attached to the application for each property, the applicant must deliver a cash bond or other security approved by the department in the amount of one hundred fifty dollars (\$150). Bond may be forfeited for any of the following reasons:

(1) Failure to:

(A) pay the user fee within the prescribed time frame;

(B) cancel the event within thirty (30) days from the date the application was submitted; or

(C) comply with section 9.5 of this rule.

(2) Restoration of the mooring judge's or spectators' area.

(3) Reimburse to the department for cost of supervision, maintenance, and labor.

(4) To collect any other unpaid fees or costs that are due, including expenses incurred in the collection of the unpaid fees.

(h) Within fourteen (14) days after a tournament, the license holder must provide to the department a user fee equal to the greater of:

(1) eighty percent (80%) of the number of boats listed on the license; or

(2) the number of boats participating in the tournament.

If the user fee under this subsection is greater than the amount of the bond, the organization is also responsible for the difference.

(i) The amount of the fee shall be established by the director within a range of fees for this purpose approved by the commission. The director may waive the user fee if the:

(1) tournament is held for charity where all of the profits are given to that charity; and

(2) waiver request is:

(A) made in writing; and

(B) submitted with the application.

(j) The director may require insurance in addition to what is set forth in subsection (f) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(k) A license holder shall:

(1) indemnify;

(2) defend;

(3) exculpate; and

(4) hold harmless;

the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity.

(l) The department may deny a license application or may revoke a license issued under this section if any fee or cost provided under this section is delinquent. Upon the satisfaction of any delinquencies, an individual may apply for a new license. (*Natural Resources Commission; 312 IAC 5-3.5-10*)

312 IAC 5-3.5-11 Limitations on organized boating activities at Lake Wawasee and Syracuse Lake, Kosciusko County

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 11. (a) This section governs organized boating activities on Lake Wawasee and Syracuse Lake in Kosciusko County.

(b) On the combined waters of Lake Wawasee and Syracuse Lake, the maximum number of boats that can lawfully participate in a fishing tournament on a Saturday or a Sunday is as follows:

(1) One hundred twenty-five (125) for the following periods:

(A) from April 1 until the weekend including Memorial Day; and

(B) after the weekend including Labor Day until September 15.

(2) One hundred (100) from the weekend including Memorial Day through the weekend including Labor Day.

(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating boats may be attributed either to Saturday or to Sunday so as to facilitate the ability of an organized boating activity to use the lake. (*Natural Resources Commission; 312 IAC 5-3.5-11*)

312 IAC 5-3.5-12 Limitations on organized boating activities at Sylvan Lake, Noble County

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 12. (a) This section governs organized boating activities on Sylvan Lake, Noble County.

(b) On the waters of Sylvan Lake, the maximum number of boats that can lawfully participate in a fishing tournament is as follows:

(1) One (1) tournament each day, consisting of no more than sixty-five (65) boats, for the period of April 1 through April 30.

(2) One (1) tournament each day, consisting of no more than fifty (50) boats, for the period of May 1 through September 30.

(c) For a tournament subject to subsection (b) that is scheduled to continue past midnight, the number of participating boats may be attributed to either day so as to facilitate the ability of an organized boating activity to use the lake. (*Natural Resources Commission; 312 IAC 5-3.5-12*)

SECTION 5. 312 IAC 5-5-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 5-5-3 Litter and other waste disposal from a boat

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-15-7-3

Affected: IC 14

Sec. 3. (a) Except as provided in subsection (b), a person must not dispose of litter or other waste from a boat maintained or operated upon public water.

(b) A person who maintains or operates a boat upon Lake Michigan or another waterway described in 40 CFR 1700 must not violate 40 CFR 1700 in treatment or disposal of litter or other waste from a boat.

(c) ~~The following definitions apply throughout~~ **As used in** this section:

~~(1) "Litter" includes the following:~~

~~(A) Bottles.~~

~~(B) Glass.~~

~~(C) Crockery.~~

~~(D) Cans.~~

~~(E) Scrap metal.~~

~~(F) Junk.~~

~~(G) Paper.~~

~~(H) Garbage.~~

~~(I) Rubbish.~~

~~(J) Plastic.~~

~~(K) Similar refuse.~~

~~(2)~~ "other waste" includes the following:

~~(A)~~ (1) Filth.

~~(B)~~ (2) A putrid substance.

~~(C)~~ (3) An unwholesome substance.

~~(D)~~ (4) Contents of a catch basin.

~~(E)~~ (5) Contents of a grease trap.

~~(F)~~ (6) Any other graywater.

(Natural Resources Commission; 312 IAC 5-5-3; filed Mar 23, 2001, 2:50 p.m.: 24 IR 2372, eff Jan 1, 2002; readopted filed May 29, 2008, 1:53 p.m.: 20080625-IR-312080057RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA)

SECTION 6. 312 IAC 2-4-1; 312 IAC 2-4-2; 312 IAC 2-4-3; 312 IAC 2-4-4; 312 IAC 2-4-5; 312 IAC 2-4-7; 312 IAC 2-4-7.5; 312 IAC 2-4-9; 312 IAC 2-4-9.5; 312 IAC 2-4-11; 312 IAC 2-4-12; 312 IAC 2-4-13; and 312 IAC 2-4-14 ARE REPEALED.